

The parties' letter-motion (the "Letter-Motion") to file in redacted form, or under seal, Defendants' Sur-Reply in Opposition to Plaintiffs' Class Certification Motion and associated documents (ECF No. 505) is GRANTED. The Court grants leave to the parties to maintain the redactions in the documents filed at ECF Nos. 506–07, and, as set forth in the Letter-Motion, Exhibit No. 73 (ECF No. 507-5) may be filed under seal.

The parties are directed to promptly file under seal unredacted versions of their filings at ECF No. 506–07.

The Clerk of Court is respectfully directed to close ECF No. 505.

SO ORDERED 12/17/2021


SARAH L. CAVE
United States Magistrate Judge

**Re: *Iowa Pub. Emps.' Ret. Sys. et al. v. Bank of Am. Corp. et al.*,
No. 17-cv-6221 (KPF/SLC)**

Dear Judge Cave:

Section 9 of the Protective Order (Dkt. Nos. 150, 228) provides that for any filing that quotes or refers to discovery material that has been designated Confidential, Highly Confidential, or Highly Confidential Data, the party “shall request to file such documents or portions thereof containing or making reference to such material or information in redacted form or under seal.” Consistent with the process this Court approved for such requests (Dkt. No. 408), the Parties now move for sealing or redaction of certain materials filed with Defendants’ Sur-Reply in Opposition to Plaintiffs’ Class Certification Motion. The Parties’ justifications for sealing or redacting those materials under *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), and its progeny are as follows.

Defendants’ Justifications and Designations

Defendants’ memorandum and certain supporting materials quote from, discuss, and make reference to the substance of documents and data designated “Confidential” and “Highly Confidential” under the Parties’ January 2, 2019 Protective Order (Dkt. No. 150), and “Highly Confidential Data” under the Parties’ October 30, 2019 Supplemental Protective Order (Dkt No. 228). Such materials include trade secrets, other confidential research, development, or commercial information, and other private or competitively sensitive information, including personal data. Accordingly, Defendants request that the marked portions of Defendants’ sur-reply memorandum of law, of Exhibits 69-72 to the Declaration of John S. Playforth in Support of Defendants’ Sur-Reply in Opposition to Plaintiffs’ Motion for Class Certification dated November 22, 2021 (the “Playforth Declaration”), and the Playforth Declaration itself, be filed in redacted form. This is in accordance with Section 9 of the Protective Order, which provides that for “papers containing or making reference to the substance of [“Confidential”, “Highly Confidential”, or “Highly Confidential Data”] material or information, [a Party] shall request to file such documents or portions thereof containing or making reference to such material or information in redacted form or under seal.”

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Defendants' memorandum and certain supporting materials also quote from, discuss, and refer to the substance of discovery material produced by Third-Parties subject to confidentiality designations, which likewise include trade secrets, other confidential research, development, or commercial information, or other private or competitively sensitive information, including personal data. Defendants have proposed, and Plaintiffs have had the opportunity to review, filing such materials under seal or with redactions consistent with the designations made by Third-Parties and *Lugosch*. Accordingly, Defendants request on their behalf that marked portions of Defendants' memorandum and Exhibits 69-72 to the Playforth Declaration, and the Playforth Declaration itself, be filed in redacted form. Defendants additionally request that Exhibit 73 to the Playforth Declaration be filed entirely under seal.

Plaintiffs' Justifications and Designations

Defendants' sur-reply papers quote from, discuss, and refer to discovery material produced by certain Parties subject to confidentiality designations, which include trade secrets, highly confidential data, other confidential research, development, or commercial information, or other private or competitively sensitive information, including personal data. In addition, Defendants' papers discuss in detail material approved for redaction or sealing pursuant to ECF 493. Accordingly, Plaintiffs request that the marked portions of Defendants' memorandum of law and of Exhibits 69 and 70 to the Declaration of John S. Playforth dated November 22, 2021 be filed in redacted form. Plaintiffs take no position with respect to Defendants' redaction and under-seal requests beyond those which we request ourselves, and reserve all rights under the Protective Orders.

Respectfully submitted,

/s/ John S. Playforth

John S. Playforth
Counsel for the JPMorgan Defendants